

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

UNITED STATES OF AMERICA )  
                                )  
                                )  
v.                             )  
                                )  
                                )  
                                ) **DOCKET NO. 5:13-cr-204-MOC**  
(1) BOGGS PAVING, INC.;       )  
(2) CARL ANDREW BOGGS, III   )  
    a/k/a Drew Boggs;           )  
(4) GREGG MILLER;              )  
(6) STYX CUTHBERTSON TRUCKING   )  
    COMPANY, INC.; and           )  
(7) JOHN CUTHBERTSON        )  
    a/k/a Styx Cuthbertson    )  
\_\_\_\_\_  
)

**JOINT MOTION TO EXTEND TIME TO FILE RESPONSES  
AND/OR REPLIES TO JOINT DEFENSE MOTIONS**

NOW COMES the United States of America, by and through Anne M. Tompkins, United States Attorney for the Western District of North Carolina, who moves jointly with the consent of Defendants BOGGS PAVING, INC. (“Boggs Paving”); CARL ANDREW BOGGS, III, a/k/a Drew Boggs (“Drew Boggs”); GREGG MILLER (“Miller”); STYX CUTHBERTSON TRUCKING COMPANY, INC. (“Styx”); and JOHN CUTHBERTSON, a/k/a Styx Cuthbertson (“Cuthbertson”) (collectively “Joint Defendants”), for an extension of time until Monday, August 4, 2014, in which the United States may respond to certain Motions filed by the Joint Defendants. In support thereof, the parties respectfully show the following:

On or about July 14, 2014, the Joint Defendants filed motions with incorporated memoranda (1) to Dismiss the Superseding Indictment for Failure to State Offenses (ECF No. 101); (2) for Limited Disclosure or *In Camera* Review of Grand Jury Transcripts (ECF No. 102); (3) to Dismiss, Strike and/or Exclude Evidence (ECF No. 103) and (4) for Leave to File Overlong Pleadings (ECF No. 104) (hereinafter collectively “Joint Defense Motions). The United States opposes the Joint Defense Motions with the exception of ECF No. 104. The Government’s responses to the Joint Defense Motions are due on July 24, 2014.<sup>1</sup>

Other than Motions *in Limine* and evidentiary notices, the United States does not expect to file any pre-trial motions in this case. The trial of this case is peremptorily set for the September term of the Court which begins on September 15, 2014.

Defendant Mann’s guilty plea and the likely resolution of the Government’s case against Defendants Hicks and Tucker changes the nature of the evidence against the Joint Defendants such that these parties request additional time to confer and evaluate their respective cases. The Government and the Joint Defendants believe they can complete their discussions within the next two weeks.

---

<sup>1</sup> Having conferred with counsel for the remaining parties, Defendants (3) Kevin Hicks (“Hicks”) and (5) Greg Tucker (“Tucker”), the United States anticipates a resolution with respect to these defendants before trial and does not anticipate any further motions from these defendants. Defendant (8) Arnold Mann’s (“Mann’s) guilty plea was accepted by the Court on June 25, 2014.

An extension of approximately 10 days would save the Court time and resources if the Joint Defense Motions are withdrawn. If the Joint Defense Motions are not withdrawn, the filing of the Government's responses on August 4, 2014, leaves approximately six weeks for the Court to consider the motions and hold hearings, if necessary.

WHEREFORE, the parties jointly move to extend the Government's time to file responses to the Joint Defense Motions until August 4, 2014, with any defense replies due no later than August 11, 2014.

RESPECTFULLY SUBMITTED, this the 17th day of July, 2014.

**Counsel for the United States:**

**ANNE M. TOMPKINS, UNITED STATES ATTORNEY**

**Michael E. Savage**

Assistant United States Attorney  
North Carolina Bar Number 33159  
227 West Trade Street, Suite 1650  
Charlotte, North Carolina 28211  
704/338-3166 (Direct Line)  
704/227-0197 (Fax)  
[mike.savage2@usdoj.gov](mailto:mike.savage2@usdoj.gov)

**Jenny Grus Sugar**

U.S. Attorney's Office  
227 W. Trade Street  
Suite 1650  
Charlotte, NC 28202  
704-344-6222  
704-344-6629 (fax)  
[jenny.sugar@usdoj.gov](mailto:jenny.sugar@usdoj.gov)

**Counsel for (2) Boggs Paving, Inc:**

**James D. Galyean**  
Nexsen Pruet, LLC  
55 E. Camperdown Way, Suite 400  
P.O. Drawer 10648  
Greenville, SC 29603  
864 282-1124  
864 477-2627 (fax)  
[jgalyean@nexsenpruet.com](mailto:jgalyean@nexsenpruet.com)

**Joseph Preston Strom, Jr.**  
Strom Law Firm, LLC  
2110 N. Beltline Blvd.  
Columbia, SC 29204  
803-252-4800  
803-252-4801 (fax)  
[petestrom@stromlaw.com](mailto:petestrom@stromlaw.com)

**William R. Terpening**  
Nexsen Pruet, PLLC  
227 West Trade Street, Suite 1550  
Charlotte, NC 28202  
704-338-5358  
Fax: 704-805-4735  
[wterpening@nexsenpruet.com](mailto:wterpening@nexsenpruet.com)

**Counsel for (2) Carl Andrew Boggs, III:**

**Roy Black**  
Black Srebnick Kornspan & Stumpf, P.A.  
201 S. Biscayne Blvd., Suite 1300  
Miami, FL 33131  
305-371-6421  
305-358-2006 (fax)  
[rblack@royblack.com](mailto:rblack@royblack.com)

**Jacqueline L. Perczek**  
Black Srebnick Kornspan & Stumpf, P.A.  
201 S. Biscayne Blvd., Suite 1300  
Miami, FL 33131  
305-371-6421  
305-358-2006 (fax)  
[jackiep@royblack.com](mailto:jackiep@royblack.com)

**Charles Jonathan Bridgmon**  
Bray & Long, PLLC  
2820 Selwyn Avenue, Suite 400  
Charlotte, NC 28209  
704-523-7777  
Fax: 704-523-7780  
[cbridgmon@braylong.com](mailto:cbridgmon@braylong.com)

**Counsel for (4) Gregg Miller:**

**Christopher C. Fialko**

Rudolf, Widenhouse & Fialko  
225 East Worthington, Suite 200  
Charlotte, NC 28203  
704/333-9945  
704/335-0224 (fax)  
[cfialko@rwf-law.com](mailto:cfialko@rwf-law.com)

**Counsel for (6) Styx Cuthbertson Trucking, Inc. and (7) John Cuthbertson:**

**Mark Patrick Foster, Jr.**

Rawls, Scheer, Foster & Mingo, PLLC  
1011 E. Morehead St., Ste 300  
Charlotte, NC 28204  
704 376-3200  
704-332-2716 (fax)  
[mfoster@rsfmlaw.com](mailto:mfoster@rsfmlaw.com)

**Beattie B. Ashmore**

Beattie B. Ashmore, P.A.  
650 E. Washington Street  
Greenville, SC 29601  
864-467-1001  
864-672-1406 (fax)  
[beattie@beattieashmore.com](mailto:beattie@beattieashmore.com)